

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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U. S. COMMODITY FUTURES	:	
TRADING COMMISSION,	:	
	:	Case No. 13-cv-1174 (VSB)
Plaintiff,	:	
	:	
v.	:	
	:	
WILLIAM BYRNES, et al.,	:	
	:	
Defendants.	:	
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DECLARATION OF ALBERT L. HOGAN III

Albert L. Hogan III, under penalty of perjury pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am a partner at Skadden, Arps, Slate, Meagher & Flom LLP, and an attorney for Defendant New York Mercantile Exchange, Inc. ("NYMEX"), which is now wholly owned and operated by CME Group Inc. ("CMEG"). I submit this declaration in support of NYMEX's motion for summary judgment.

2. In December 2010, the Staff of the Commodity Futures Trading Commission ("CFTC" or "Commission") initiated an informal investigation into Defendant William Byrnes's disclosures of confidential trade data to Defendant Ron Eibschutz during Byrnes's employment as an analyst on NYMEX's ClearPort Facilitation Desk.

3. In the course of responding to the CFTC's investigatory requests, NYMEX learned that another former Facilitation Desk employee, Defendant Christopher Curtin, had similarly disclosed confidential trade information to Defendant Eibschutz.

4. Immediately after learning this information, NYMEX voluntarily informed the CFTC of Curtin's improper disclosures.

5. In the fall of 2011, the CFTC informed NYMEX that it intended to bring an enforcement action against NYMEX for vicarious liability under Section 2(a)(1)(B) of the Commodities Exchange Act.

6. Attached as Exhibits 1 through 39 are true and correct copies of the following documents:


Exhibit	Description
1	Excerpts from deposition of Julie Holzrichter, dated Sept. 23, 2015
2	CMEG Press Release, dated Aug. 22, 2008 (CFTC Ex. 2 to Holzrichter deposition)
3	NYMEX ClearPort SM Clearing Policy and Procedures, dated June 7, 2007 (13CV1174-CFTC-006548)
4	Excerpts from deposition of Christopher Curtin, dated Nov. 24, 2015
5	Excerpts from deposition of William Byrnes, dated Nov. 23, 2015
6	Chicago Mercantile Exchange Employee Status Change Form, dated April 30, 2009 (13CIV1174-CFTC-0017926)
7	Excerpts from deposition of Ralph Cusumano, dated Oct. 2, 2015
8	CME Employee Status Change Forms for William Byrnes (13CIV1174-CFTC-00006195, 6191, 6188)
9	Excerpts from deposition of Sean Keating, dated Oct. 16, 2015
10	Excerpts from deposition of Sean Keating, dated Feb. 3, 2012
11	Exchange User License Agreement (13CIV1174-CFTC-0006152)
12	Proposed Amendments to Conflicts of Interest Guidelines, signed by Christopher Curtin, dated Aug. 16, 2000 (13CIV1174-CFTC-0018007)
13	Offer Letter from NYMEX to William Byrnes, dated Mar. 29, 2007 (13CIV1174-CFTC-0006202)
14	NYMEX Conflict of Interest Guidelines and Confidentiality Acknowledgement Form, signed by William Byrnes, dated Mar. 29, 2007 (13CIV1174-CFTC-0006184)

Exhibit	Description
15	Acknowledgments of NYMEX's Code of Business Conduct, Employee Handbook, and Employee Proprietary Information and Invention Agreement and Confidentiality Agreement, signed by William Byrnes, dated Mar. 29, 2007 (13CIV1174-CFTC-0006185-87)
16	NYMEX Employee Handbook (13CIV1174-CFTC-0006803)
17	Memorandum from Rick Kokoszka and Khadija Waugh to Kathleen Cronin, dated Jan. 19, 2011, with attachments (13CIV1174-CFTC-0190133)
18	Excerpts from transcript of William Byrnes's hearing before New York Unemployment Insurance Appeal Board, dated May 17, 2011 (CME-CFTC-SUP-171301)
19	Excerpts from deposition of Howard Hopkins, dated Oct. 20, 2015
20	Excerpts from deposition of Dunet Belancourt, dated Oct. 7, 2015
21	Excerpts from deposition of Darren Fein, dated Oct. 22, 2015
22	Excerpts from deposition of Nour Beyhum, dated Oct. 14, 2015
23	Letter to Christopher Curtin from CMEG, dated Oct. 24, 2008 (13CIV1174-CFTC-0017937)
24	Letter to William Byrnes from CMEG, dated Oct. 24, 2008 (13CIV1174-CFTC-0006200)
25	Acknowledgement and Acceptance of Confidentiality and Intellectual Property Policy (13CIV1174-CFTC-0007824)
26	CMEG Code of Conduct (13CIV1174-CFTC-0006841)
27	Excerpts from deposition of Ron Eibschutz, dated Nov. 19, 2015
28	Transcription of call between Ron Eibschutz and Christopher Curtin, dated Mar. 2, 2009 (CFTC Ex. 94-A to Curtin deposition)
29	Email from Sean Keating to himself, dated July 14, 2009 (13CIV1174-CFTC-0014226)
30	Email chain between Sean Keating and Julie Holzrichter, dated July 16, 2009 (13CIV1174-CFTC-0014227)
31	Email chain between Bryan Durkin, Sean Keating, and Joseph Raia, dated Nov. 22, 2010 (13CIV1174-CFTC-0014244)
32	Email chain between Sean Keating and Julie Holzrichter, dated Nov. 23-30, 2010 (13CIV1174-CFTC-0014579)
33	Email chain between Bryan Durkin and Sean Keating, dated Dec. 1, 2010 (13CIV1174-CFTC-0014586)

Exhibit	Description
34	Email from Sean Keating to Julie Holzrichter and Bryan Durkin, dated Dec. 2, 2010 (13CIV1174-CFTC-0014632)
35	CFTC Notes of Meeting with William Byrnes, dated Jan. 13, 2011 (13CIV1174-CFTC-0030368)
36	Email chain between Julie Holzrichter, Sean Keating, and Bryan Durkin, dated Dec. 2, 2010 (13CIV1174-CFTC-0014634)
37	Excerpts from deposition of Bryan Durkin, dated Oct. 6, 2015
38	Defendant William Byrnes's Responses to NYMEX's Requests for Admissions, dated Feb. 16, 2016
39	Defendant Christopher Curtin's Responses to NYMEX's Requests for Admissions, dated Feb. 16, 2016

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 15, 2016



Albert L. Hogan III